

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND**

In Re: Deniz Shabo	Case Number 17-11257-DF Chapter 7
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CITIBANK, N.A. AS OWNER TRUSTEE OF NEW RESIDENTIAL MORTGAGE LOAN TRUST
2016-3
AND/OR ITS SUCCESSORS AND ASSIGNS

Movant.

v.

DENIZ SHABO,

Debtor.

**MOTION OF CITIBANK, N.A. AS OWNER TRUSTEE OF NEW RESIDENTIAL
MORTGAGE LOAN TRUST 2016-3 FOR RELIEF FROM THE CO-DEBTOR STAY
PURSUANT TO 11 U.S.C. SECTION 1301(c) AND FOR LEAVE TO FORECLOSE
MORTGAGE**

Citibank, N.A. As Owner Trustee Of New Residential Mortgage Loan Trust 2016-3 (hereinafter referred to as the “Movant”), a secured creditor, hereby moves this Court for Relief from the Co-Debtor Stay pursuant to 11 U.S.C. Section 1301(c) and for leave to foreclose a certain mortgage encumbering the property owned by the Debtor and by the Co-Debtor, Daniel E. Shabo, known as *10 Maplewood Drive, Lincoln, RI 02865*. In support of this Motion, Movant states as follows:

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. 1334 and 28 U.S.C. 157(b)(2)(G). This case relates to a case under Title 11 of the United States Code (the “Bankruptcy Code”). This proceeding is a “core” proceeding as this term is defined in the Code.
2. On July 24, 2017, Deniz Shabo (f/k/a Salon Deniz) (hereinafter referred to as the “Debtor”) filed a voluntary Chapter 7 Petition in Bankruptcy.
3. Movant is the current holder of a certain mortgage given by the Debtor and by Daniel E. Shabo (hereinafter referred to as the Co-Debtor) to America's Wholesale Lender in the original principal amount of \$400,000.00 dated December 19, 2002, and recorded with the Town of Lincoln Land Evidence Records in Book 937, Page 3 (the “Mortgage”). A copy of the Mortgage is attached hereto as Exhibit A.

4. The Mortgage secures a promissory note of even date and original principal amount given by the Debtor to America's Wholesale Lender (the "Note") of which Movant is the current holder. A copy of the Note is attached hereto as Exhibit B.
5. Countrywide Home Loans, Inc. assigned the Mortgage to The Bank of New York Trustee under the Pooling and Servicing Agreement, Series 02-37 by assignment dated December 30, 2002 and recorded with the Town of Lincoln Land Evidence Records in Book 1169, Page 141 a copy which is attached here to as Exhibit C. The Bank of New York Trustee under the Pooling and Servicing Agreement Series 02-37, in turn, assigned the Mortgage to The Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificateholders CWMBS Alternative Loan Trust 2002-37 Mortgage Pass-Through Certificates, Series 2002-37 by assignment dated June 17, 2009 and recorded with the Town of Lincoln Land Evidence Records in Book 1596, Page 191 a copy which is attached here to as Exhibit D. The Bank of New York Mellon f/k/a The Bank of New York as Trustee for the CHL Mortgage Pass-Through Trust 2002-37, Mortgage Pass-Through Certificates, Series 2002-37, in turn, assigned the Mortgage to New Residential Mortgage Loan Trust 2016-3 by assignment dated October 28, 2016 and recorded with the Town of Lincoln Land Evidence Records in Book 2027, Page 224 a copy which is attached here to as Exhibit E. New Residential Mortgage Loan Trust 2016-3, in turn, assigned the Mortgage to Citibank, N.A. as owner Trustee of New Residential Mortgage Loan Trust 2016-3 by assignment dated April 14, 2017 and recorded with the Town of Lincoln Land Evidence Records in Book 2054, Page 259 a copy which is attached here to as Exhibit F. The current loan servicer for the Movant is Nationstar Mortgage LLC.
6. The Mortgage encumbers real property known as *10 Maplewood Drive, Lincoln, RI 02865* (hereinafter referred to as the "Property"). Copies of the Mortgage and Note are attached hereto as Exhibits "A" and "B" respectively. The Mortgage is in first lien position. Aside from the Property, there is no other collateral securing the Debtor's obligation to Movant.
7. The Debtor and Co-Debtor have defaulted on the Note and Mortgage by failing to make regular payments to Movant.
8. As of July 26, 2017, the balance due Movant on the Note was approximately \$567,329.49 (may not include negative escrow balances or recent escrow advances). The full amount of the Movant's claim together with allowable post-petition interest, reasonable attorney fees, court costs, and other recoverable expenses is secured by the Mortgage.
9. According to the Broker's Price Opinion, the fair market value of the Property is \$500,000.00. The liquidation value of the Property is \$472,200.00 based upon a usual and

customary broker's commission of \$25,000.00 (5% of stated fair market value), deed stamps of \$2,300.00, and \$500.00 in miscellaneous estimated closing costs.

10. As of July 26, 2017, the Debtor's mortgage account is due for the August 1, 2016 contractual due date. The current monthly payment is \$2,591.70, subject to such subsequent adjustment as may be specified in the note.

11. As of July 26, 2017, Debtor and Co-Debtor owed Movant a total contractual arrearage of \$32,181.24 calculated as follows:

- 2 monthly payments (08/01/16 - 09/01/16) at \$2,666.62/mo. \$5,333.24
 - 10 monthly payments (10/01/16 - 07/01/17) at \$2,591.70/mo. \$25,917.00
 - Motion Fees and Costs \$931.00

Total Contractual Arrearage \$32,181.24

12. In addition to the Mortgage to Movant, there are outstanding liens on the Property as follows:

<u>Lien</u>	<u>Type</u>	<u>Amount</u>	<u>Book/Page</u>
Movant	1 st Mortgage	\$567,329.49	937/3
Countrywide Home Loans, Inc.	Junior Mortgage	\$69,000.00	1060/216
Freedom National Bank	Junior Mortgage	\$221,000.00	1559/100
Freedom National Bank	Junior Mortgage	\$350,000.00	1274/178
Internal Revenue Service	Lien	\$8,957.22	1560/63
Internal Revenue Service	Lien	\$4,618.91	1560/65
Stride Card LLC	Judgment	\$33,253.21	2043/240
Town of Lincoln, RI-Tax Collector	Judgment	\$494.93	2004/175

The total of all liens on the Property is approximately \$1,254,653.76.

13. **Within twenty (20) days after service, if served electronically, as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if served by mail or other excepted means specified, any party against whom such paper has been served, or any other party who objects to the relief sought, shall serve and file an objection or other appropriate response to said paper with the Bankruptcy Court Clerk's Office, 380 Westminster Street, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed, the paper will be deemed unopposed and will be granted**

unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

WHEREFORE, Movant requests that this Honorable Court:

- (a) Grant Movant Relief from the Co-debtor Stay pursuant to 11 U.S.C. Section 1301(c), and for leave to Foreclose Mortgage, allowing Movant, its successors or assigns to foreclose said mortgage (including, at its sole option, leave to accept a deed-in-lieu of foreclosure from the Debtor and/or the Co-Debtor, their heirs, successors, assigns or transferees); and for it or a third party purchaser to prosecute summary process proceedings to evict any persons residing in the Property. Movant also seeks relief from the Co-Debtor Stay to pursue the Co-Debtor via such collection methods as are authorized by law for any deficiency that may result from Movant's foreclosure sale of the Property.
- (b) Grant such other Relief as this Honorable Court may deem just.

Date: August 15, 2017

Respectfully submitted,
Citibank, N.A. As Owner Trustee Of New
Residential Mortgage Loan Trust 2016-3
By its attorney,

/s/ Catherine V. Eastwood
Catherine V. Eastwood, Esquire
RI# 6406
Korde & Associates, P.C.
900 Chelmsford Street, Suite 3102
Lowell, MA 01851
Tel: (978) 256-1500
ceastwood@kordeassociates.com
bankruptcy@kordeassociates.com